

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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**Michael Tate, Joseph Shuster, Lyle Evanson  
and John Ayers, individually and on behalf  
of all other individuals similarly situated,**

Civil No. 09-2076 (MJD/JJG)

Plaintiffs,

**ORDER ON REPORT AND  
RECOMMENDATION**

v.

**Restaurant Technologies, Inc., Parthenon  
Capital LLC, Jeffrey R. Kiesel, John C.  
Rutherford, Jonathan O. Grad, Zachary F.  
Sadek, Philip A. Clough, and Robert E.  
Weil,**

Defendants.

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The above-entitled matter came before the Court upon the Report and Recommendation of the United States Magistrate Judge. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all the files, records and proceedings herein,

**IT IS HEREBY ORDERED** that:

1. The Trust's Motion Requesting Court to Find Claims Were Timely as a Result of "Excusable Neglect" and Allowing Participation in Settlement Fund Distribution of Class Member W. Hall Wendel, Jr. Revocable Trust (Doc. No. 175) is **GRANTED**.
2. The Trust shall be allowed to participate in the distribution of settlement funds

and receive its proportionate share of the settlement proceeds in the above-captioned action, and the Claims Administrator and Class Representatives shall ensure immediate distribution of the same.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: August 12, 2011

s/Michael J. Davis

MICHAEL J. DAVIS

Chief United States District Judge